



## MINUTES

**CITY OF SCOTTSDALE POLICE LOCAL BOARD OF THE  
PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM (PSPRS)  
REGULAR MEETING  
11:00 a.m., Thursday, May 19, 2011  
Human Resources Verde Conference Room  
7575 E. Main Street  
Scottsdale, Arizona 85251**

**PRESENT:** Jack Cross, Chairman/Mayoral Designee  
James Butera, Elected Member  
Velicia McMillan, Citizen Member/Merit Head (arrived at 11:14 a.m.)  
Jeffrey Walther, Elected Member

**ABSENT:** Jeffrey Burg, Citizen Member

**STAFF:** Ken Nemec

**OTHER:** Hanna Auckland, Esq.

### **Call to order**

Chairman Cross called the meeting to order at 11:03 a.m. He stated that the first order of business was the acknowledgement of Board Member Burg's excused absence and Board Member McMillan's late arrival.

### **Roll call**

A formal roll call confirmed the members present as stated above.

#### **1. Review and Approval of Meeting Minutes—April 21, 2011**

**BOARD MEMBER WALTHER MOVED TO APPROVE THE MINUTES OF THE APRIL 21, 2011 PSPRS POLICE LOCAL BOARD MEETING AS PRESENTED. BOARD MEMBER BUTERA SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF THREE (3) TO ZERO (0). BOARD MEMBER BURG WAS ABSENT AND BOARD MEMBER MCMILLAN ARRIVED LATER.**

**2. Review and Approval of Meeting Minutes—May 4, 2011**

**BOARD MEMBER WALTHER MOVED TO APPROVE THE REGULAR MEETING MINUTES OF THE MAY 4, 2011 PSPRS POLICE LOCAL BOARD MEETING AS PRESENTED. BOARD MEMBER BUTERA SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF THREE (3) TO ZERO (0). BOARD MEMBER BURG WAS ABSENT AND BOARD MEMBER MCMILLAN ARRIVED LATER.**

**3. Review and Approval of Executive Session Meeting Minutes—May 4, 2011**

**BOARD MEMBER WALTHER MOVED TO APPROVE THE EXECUTIVE SESSION MEETING MINUTES OF THE MAY 4, 2011 PSPRS POLICE LOCAL BOARD MEETING AS PRESENTED. BOARD MEMBER BUTERA SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF THREE (3) TO ZERO (0). BOARD MEMBER BURG WAS ABSENT AND BOARD MEMBER MCMILLAN ARRIVED LATER.**

**4. Induction of New Scottsdale Police Officers into PSPRS**

Mr. Nemec announced there were no new Scottsdale Police Officers to induct into the PSPRS.

**5. Discussion and Vote on the DROP (Deferred Retirement Option Plan) Termination and Normal Retirement Application of Police Sergeant James C. Taylor**

Mr. Nemec reported that Police Sergeant James C. Taylor entered the DROP in January 2011 and had applied to retire from the DROP on May 19, 2011 with approximately 20 years of service. He stated that his paperwork was in order and the monthly pension associated with this application was \$4,428.75 scheduled to begin on or about June 30, 2011.

**BOARD MEMBER BUTERA MOVED TO ACCEPT THE DROP TERMINATION REQUEST OF POLICE SERGEANT JAMES C. TAYLOR AND TO APPROVE HIS NORMAL RETIREMENT APPLICATION, EFFECTIVE MAY 19, 2011 SUBJECT TO FINAL PAYROLL CALCULATIONS AND QUALIFIED DOMESTIC RELATIONS ORDERS. THE MONTHLY PENSION ASSOCIATED WITH THIS APPLICATION IS \$4,428.75 TO BEGIN ON OR ABOUT JUNE 30, 2011. BOARD MEMBER WALTHER SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF THREE (3) TO ZERO (0). BOARD MEMBER BURG WAS ABSENT AND BOARD MEMBER MCMILLAN ARRIVED LATER.**

**6. Discussion and Vote on the DROP (Deferred Retirement Option Plan) Termination and Normal Retirement Application of Police Officer John H. Karlik**

Mr. Nemec reported that Police Officer John H. Karlik applied to retire from the DROP on May 31, 2011 with approximately 27 years of service. He stated that his paper work was in order and the monthly pension associated with this application was \$3,890.37 scheduled to begin on or about June 30, 2011.

He recalled that at the Board's May 4, 2011 meeting Police Officer Karlik's application for an accidental disability pension was denied by the Board and as a result of subsequent conversations with the Applicant he filed his application for normal retirement.

Mr. Nemec noted that he was unclear whether the Applicant was going to take any further action on his denied accidental disability retirement application.

Chairman Cross expressed the Board's appreciation of Police Sergeant Taylor and Police Officer Karlik's many years of service to the citizens of Scottsdale.

**BOARD MEMBER WALTHER MOVED TO ACCEPT THE DROP TERMINATION REQUEST OF POLICE OFFICER JOHN H. KARLIK AND TO APPROVE HIS NORMAL RETIREMENT APPLICATION, EFFECTIVE MAY 31, 2011 SUBJECT TO FINAL PAYROLL CALCULATIONS AND QUALIFIED DOMESTIC RELATIONS ORDERS. THE MONTHLY PENSION ASSOCIATED WITH THIS APPLICATION IS \$3,890.37 TO BEGIN ON OR ABOUT JUNE 30, 2011. BOARD MEMBER BUTERA SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF THREE (3) TO ZERO (0). BOARD MEMBER BURG WAS ABSENT AND BOARD MEMBER MCMILLAN ARRIVED LATER.**

**7. Discussion of Revised DROP (Deferred Retirement Option Plan) Pension Amount applicable to Police Officer Grant E. Romney. Pension amount previously approved by the Board was based on an Incorrect DROP Entry Date**

Mr. Nemec reported that Police Officer Grant E. Romney's initial DROP application for entering the DROP on May 31, 2006 had a monthly pension associated with it of \$2,549.95.

He explained that when the applicant recently decided to terminate DROP membership and retire staff noticed that according to the second page of his original application he had intended to enter the DROP on May 27, 2006.

Mr. Nemec summarized that after staff recalculated the figures for this application they found that by entering the DROP four days earlier than May 31, 2006 the Applicant's monthly DROP pension amount would be \$2,548.83, which was \$1.12 less than initially calculated.

In response to Chairman Cross' inquiry regarding whether the retirement fund at the State level is aware of the error, Mr. Nemec confirmed that they were and had asked staff to resolve the issue.

**BOARD MEMBER WALTHER MOVED TO APPROVE THE REVISED DROP PENSION CALCULATION AMOUNT OF \$2,548.83 APPLICABLE TO POLICE OFFICER GRANT E. ROMNEY. BOARD MEMBER BUTERA SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF THREE (3) TO ZERO (0). BOARD MEMBER BURG WAS ABSENT AND BOARD MEMBER MCMILLAN ARRIVED LATER.**

**8. Discussion and Vote on the DROP (Deferred Retirement Option Plan) Termination and Normal Retirement Application of Police Officer Grant E. Romney**

Mr. Nemec reported that Police Officer Grant E. Romney entered the DROP on May 27, 2006 with 20.07 years of service and was retiring from the DROP on May 27, 2011 with 26 years of service. He stated that his paperwork was in order and the monthly pension associated with this application was \$2,548.83 scheduled to begin on or about June 30, 2011.

**BOARD MEMBER BUTERA MOVED TO ACCEPT THE DROP TERMINATION REQUEST OF POLICE OFFICER GRANT E. ROMNEY AND TO APPROVE HIS NORMAL RETIREMENT APPLICATION, EFFECTIVE MAY 27, 2011 SUBJECT TO FINAL PAYROLL CALCULATIONS AND QUALIFIED DOMESTIC RELATIONS ORDERS. THE MONTHLY PENSION ASSOCIATED WITH THIS APPLICATION IS \$2,548.83 TO BEGIN ON OR ABOUT JUNE 30, 2011. BOARD MEMBER WALTHER SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF FOUR (4) TO ZERO (0). BOARD MEMBER BURG WAS ABSENT.**

**9. Discussion and Vote to Determine based upon the Documentation Submitted, the Eligibility of the Eligible Child Benefit for Karen Haney as the Guardian of Justin Haney, Son of Deceased Employee of the City of Scottsdale and PSPRS Member, Paul G. Nowinski**

Mr. Nemec recalled that on July 11, 2010 Police Detective Paul G. Nowinski passed away and on September 16, 2010 the Board approved surviving spouse Stacia Nowinski's application for monthly surviving spouse benefits in the amount of \$2,625.33 and child benefits in the amount of \$328.17.

He reported that Ms. Washington was contacted by Karen Haney last week regarding the eligibility of child benefits for deceased Police Detective Nowinski's son Justin Haney.

Mr. Nemec explained that Ms. Haney submitted to staff a copy of Justin Haney's birth certificate that does not name a father, a 2001 DNA report and tax returns proving that she was his legal guardian. Those documents were hereafter provided to Ms. Auckland for review and counsel as to their applicability to this benefit application.

Ms. Auckland discussed the fact that the Board must determine whether Justin Haney was an eligible child of deceased Police Detective Nowinski and whether Ms. Haney was entitled to receive surviving spouse benefits as his legal guardian.

She recalled that staff received confirmation from the DNA Diagnostics Center earlier today confirming that their 2001 DNA report had not been altered and that the participants listed also matched their records.

Ms. Auckland elaborated that the PSPRS states that an eligible child is an unmarried child of the deceased member under 18 years of age.

In response to Board Member Walther's inquiry regarding whether deceased Police Detective Nowinski had paid child support for Justin Haney, Ms. Auckland recalled that Ms. Haney informed Ms. Washington that an attempt to file a child support suit was made but was never filed, as reflected by the documentation provided.

She pointed out that the draft child support document contains deceased Police Detective Nowinski's notarized signature on page 5.

In response to Board Member Walther's inquiry regarding whether child support funds were ever exchanged between Ms. Haney and deceased Police Detective Nowinski, Ms. Auckland opined that payments were exchanged, noting that Ms. Washington could confirm those facts.

Ms. Auckland confirmed that PSPRS informed staff that the approval of child benefits for a second child would not affect the amount of the current child benefits payment being made for the first child.

In response to Chairman Cross' inquiry regarding whether the recently passed SB 1317 would affect the approval of these benefits, Ms. Auckland explained that since this application was filed before the new legislation goes into effect on July 20, 2011 the benefits would be retroactive to the date of deceased Police Detective Nowinski's death. She noted that if the application had been received after the July 20<sup>th</sup> effective date the benefits would have only been retroactive from the date of the application.

In response to Chairman Cross' inquiry regarding whether there was any additional documentation confirming the paternity relationship, Ms. Auckland stated that the second DNA report received by staff confirmed that the probability of paternity was 99.6%.

Mr. Nemec recalled that once staff received Ms. Haney's request for benefits they reviewed deceased Police Detective Nowinski's employment records as well as Mrs. Nowinski's application for monthly surviving spouse benefits to confirm that there was no mention of a second child.

**BOARD MEMBER WALTHER MOVED TO APPROVE THE ELIGIBLE CHILD BENEFIT FOR KAREN HANEY AS THE GUARDIAN OF JUSTIN HANEY, SON OF DECEASED CITY OF SCOTTSDALE EMPLOYEE AND PSPRS MEMBER PAUL G. NOWINSKI. BOARD MEMBER MCMILLAN SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF FOUR (4) TO ZERO (0). BOARD MEMBER BURG WAS ABSENT.**

**10. Report to the Board on Recently Completed Transfers to Prior Service Credits**

Mr. Nemec reported that Police Officer Thomas Henny bought back 2.547 years of prior military service for \$60,015.00, noting that he currently has 23.221 years of service under the Public Safety Retirement System.

He stated that Police Officer Jamie Buckler had a recent redemption of 0.501 years of prior service, noting that the amount rolled over from the 457 Deferred Compensation Account was \$7,289.00.

Chairman Cross stated that Police Officer James Dear had a recent redemption of 2.500 years of prior military service, noting that the amount rolled over from the 457 Deferred Compensation Account was \$119,569.00.

**11. Discuss SB 1317 and its Effect on Benefits Provided by PSPRS**

Mr. Nemec explained that under A.R.S. Section 38-817 E there was a healthcare subsidy allowance for a retired member or survivor of the plan to purchase individual healthcare coverage as long as the former employer assumes the administrative functions associated with the payment. He explained that the City would receive the subsidy payment from PSPRS and then pay the retired member or survivor of the plan the subsidy.

Mr. Nemec summarized that after receiving inquiries from retirees as to whether they could receive the healthcare subsidy in order to pay for healthcare insurance if they become employed again, Public Safety previously confirmed that the definition of "other insurance" related to individually purchased healthcare insurance.

He stated that the update to A.R.S. Section 38-857 D clarifies that the third party reimbursement system does not apply to any retired member or survivor of the System who was reemployed and participates in that employer's health insurance plan.

Ms. Auckland confirmed that the updated provision on page 2 of Senate Bill 1317 was a result of a suit regarding Section 38-817 of the Elected Officials Plan. She elaborated that some of the minor changes initiated by SB 1317 were changing Fund Manager to Board of Trustees, and updating the timeline requirements for Local Boards to submit minutes and for employers to submit contributions to the Board of Trustees.

Ms. Auckland explained that the change to A.R.S. Section 38-842.12 allows compensatory time used by an employee in lieu of overtime not otherwise paid by an employer to be included in compensation when computing retirement benefits.

She stated that A.R.S. Section 38-842.27 now allows firefighters going through training who are not yet certified to be considered employees eligible to become members of the PSPRS rather than becoming members of the ASRS.

Ms. Auckland summarized that A.R.S. Section 38-857 D was the corrected language that clarifies that a retired member or survivor of the system may elect to purchase individual healthcare coverage and receive a subsidy payment through the PSPRS Plan.

In response to Chairman Cross' inquiry regarding why A.R.S. Section 38-849 was being repealed, Ms. Auckland stated that this section pertains to members that were

retired and then rehired, noting that there are currently two conflicting versions of this section which needs to be reconciled.

Ms. Auckland explained that A.R.S. Section 38-845.02 states that "The Board shall not make a retroactive payment of a pension to a person that is more than 90 days before the date of the person's application for benefits," and if Ms. Haney had submitted her application sometime next year she would have been limited to the 90-day restriction.

She recalled discussions with Mr. Anthony regarding conflicts that could arise since the current statute governing retirement applications allows a member to apply for disability retirement up to one year after they cease to be a member and once the application was granted it would become effective the date of the member's last date of employment.

Chairman Cross inquired whether legal counsel planned to present information to the Board on Senate Bill 1609. Ms. Auckland agreed to present the new information to the Board after their June 2011 meeting.

**12. Discuss Proposal being considered by City Council to Charge PSPRS Accidental Disability Retirees the Medical Benefit Rate Applicable to Employees rather than the Rate Applicable to Other Retirees**

Mr. Nemec stated that City retirees who retire from the Elected Officials, Public Safety, and Arizona State Retirement Systems immediately upon leaving the City are eligible to remain in the City's medical plan until age 65. In the past employee and retiree claims were pooled together to develop single family healthcare rates.

Mr. Nemec elaborated that according to the Federal Accounting Standard Board Laws, covering retirees under a healthcare plan for the same rates that employees are charged creates a non-funded liability.

In February 2011 City Council approved a new process wherein retirees are separated from the employees in the rate setting process. This initiated a 31% rate increase in healthcare costs to the retirees since it was determined that on a per capita basis retirees cost roughly 60% more than employees do.

Mr. Nemec explained that City Council decided to make an exception for Public Safety accidental disability retirees. He reported that the 27 current accidental disability retirees covered under the City's healthcare plan would receive a 6% rate increase instead of the 31% rate increase.

Discussion ensued regarding the how healthcare premium process was handled by Public Safety and the City of Scottsdale. Mr. Nemec reported that the cost of implementing the new healthcare premium process of approximately \$125,000 per year has already been included in the 2011/2012 budget.

**CLOSED PUBLIC HEARING**

**13. Motion to Recess into Executive Session**

Chairman Cross deemed it unnecessary to recess into Executive Session.

**RECONVENE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM MEETING  
FOLLOWING EXECUTIVE SESSION**

**14. Board Suggestions for Upcoming Agenda Items**

Board Member Walther requested that legal counsel provide the Board with a summary of the affects of SB 1609 on the PSPRS Plan so they can answer questions from the members.

**ADJOURNMENT**

With no further business to discuss, being duly moved and seconded, the meeting adjourned at 11:54 a.m.

Respectfully Submitted by:

REVIEWED BY:

Ken Nemec  
PSPRS Police Local Board Secretary

Jack Cross  
PSPRS Chairman/Mayoral Designee